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Subject: Comments on Proposed Rule to List the Eastern North Pacific Southern Resident Stock of Killer Whales (*Orcinus Orca*) as Depleted under the MMPA

Dear Chief:

I anticipate our organization ACS/PS signed on to a group letter distributed by People for Puget Sound. I am submitting personal comments on issues not addressed in the group letter.

Re. The proposed rule: I agree the Southern Residents warrant a depleted designation *at a minimum*. I believe science supports an eventual ESA listing, and I urge further consideration of an ESA listing.

My other comments pertain to Southern Resident Killer Whale conservation measures and proposed research. I have twelve years of experience as an independent field observer, marine naturalist, and environmental educator. I started as an intern at The Whale Museum in Friday Harbor, observing the Southern Residents in the San Juan Islands. For the past nine years I have collaborated with another private researcher to document fall and winter orca sightings in central Puget Sound (Vashon Island). I have drawn from my field observations for my comments.

Re. Noise and stress associated with heavy boat traffic around the Southern Residents:

Most orca researchers and conservation NGOs are deeply concerned about acoustic disturbance and other potentially harmful consequences from excessive vessel traffic around the Southern Residents. Detrimental effects on our killer whales include energetic costs of avoidance behavior, interference with foraging and social communication, prey masking from vessel noise, and risk of permanent hearing loss from prolonged exposure.

Winter is apparently the Southern Residents' most vulnerable time, when they are more likely to die. In winter, prey availability has been inconsistent. Historically, the Southern Residents could find respite from whale watchers in boats when they visited central Puget Sound in fall and winter.

Two recent, disturbing trends jeopardize the Southern Residents' well being during their most vulnerable time. These two threats are from indiscriminate release of real time orca sighting information via e-mail and phone, and the expansion of commercial fall/winter whale watching (focused on the Southern Residents) into central Puget Sound.

The Southern Residents already contend with a high volume of commercial shipping traffic when traveling in industrial Puget Sound. Boater education is virtually non-existent in this part of Puget Sound. Considering the number of marinas and boat launches between Everett and Olympia, uninformed recreational boaters present a substantial risk to the Southern Residents.

Internet-based sighting networks have no filters to keep whale sightings from disruptive recreational boaters. As in the San Juans, commercial whale watching boats are magnets for other boaters. NGOs and responsible commercial operators who care about the Southern Residents' welfare should not be making it easier for uneducated boaters to disturb the Southern Residents in central Puget Sound.

We must not underestimate this threat. Over the years, I have witnessed many distressing encounters between inconsiderate whale watchers and Southern Residents in Haro Strait, Dyes Inlet, near Vashon, and in Nootka Sound with L98. NMFS and its collaborators must be proactive in preventing additional pressure from boats throughout the Southern Residents' range.

The Precautionary Principle has been suggested for polluters; i.e., show that actions affecting the Southern Residents or altering their habitat will not harm the orcas. I submit this principle also applies to NGOs, researchers, and other stakeholders in determining appropriate conservation measures and research methods. To aid in recovery, we must allow the Southern Residents a break from relentless whale watching.

Addressing complex threats facing the Southern Residents from environmental contamination and uncertain prey availability will be long term recovery goals. We can have an immediate impact on Southern Resident recovery by developing a plan to mitigate exposure, acoustic disturbance, and other potential harm from too many boats on too few orcas.

A few suggestions to provide protections for the Southern Residents:

- ◆ Boater education and monitoring beyond the San Juans are urgently needed.
- ◆ Tour operators and naturalists should modify clients' expectations on whale watching cruises to de-emphasize "close encounters" and photo ops. They should inform clients how privileged they are to observe *any* natural behavior from *any* distance in the only readily accessible wild orca population in the United States.
- ◆ Since the BRT deemed the threat of an oil spill the most acute threat to the Southern Residents' survival, rescue tugs at Neah Bay and other sensitive locations must be adequately funded year-round. Well-coordinated containment and emergency response are also priorities.
- ◆ The Southern Residents are fragile. Again, considering the Precautionary Principle, research methods should be non-invasive and low impact. For example, in determining the Southern Residents' year-round range, passive hydrophone arrays are highly preferable to surgically implanted satellite tracking tags.

Thank you.

Respectfully,



Ann Stateler